

In re Patent Application of:
CHARBENEAU, MICHAEL P
Serial No. 10/677,935
Filed: OCTOBER 2, 2003

REMARKS

As an initial matter, the Applicant thanks the Examiner for conducting a telephone conference with Applicant's Attorney regarding the case. The Applicant also thanks the Examiner for her thorough examination of the present application.

The claims have been amended to further define the present invention over the prior art. The claims have also been amended to address the 35 U.S.C. §112 concerns, as helpfully pointed out by the Examiner.

I. Response to Restriction Requirement

In response to the restriction requirement, Applicant hereby acknowledges election of Claims 4-17 to be examined in the present application.

With the above in mind, however, it is respectfully requested that the Examiner use her discretion under 35 U.S.C. §121 and withdraw the restriction requirement since search and examination of the entire application can be made without serious burden.

II. The Invention

The invention, as recited in independent Claim 4, for example, is directed to a retaining device for use in a vehicle. The retaining device comprises a substantially flat body. The body has an upper portion, a lower portion, and a medial portion. Further, the body has a polygonal shape, and a plurality of spaced-apart apertures formed in the medial portion. The body also has a first plurality of passageways formed in the upper portion, and a second plurality of passageways formed in the lower portion.

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The retaining device also includes a first mounting member that matingly engages at least one of the first plurality of passageways, and a second mounting member that matingly engages at least one of the second plurality of passageways so that said body may be detachably mounted to a rear portion of a seat within the vehicle to allow at least one object to be retained on said body when mounted. The first plurality of passageways and the second plurality of passageways have a substantially similar shape. Further, the first and second plurality of passageways have a shape substantially different from the plurality of spaced-apart apertures.

The invention, as recited in independent Claim 13, for example, includes a plurality of spaced-apart C-shaped apertures formed in a medial portion of the substantially flat body.

III. The Claims are Patentable Over the Bell '839 Patent

The Examiner cited U.S. Patent Number 6,105,839 to Bell to reject the previous independent Claims 4 and 13. Independent Claims 4 and 13 have been amended to further define over the Bell '839 patent.

The Bell '839 patent discloses a seat back carrier for carrying a personal oxygen system in a vehicle. More specifically, the seat back carrier includes a frame that is foldable between an open position for carrying the personal oxygen system, and a closed, or stored, position.

The frame also includes a plurality of passageways formed therein. A first plurality of passageways are formed in an upper portion of the foldable frame, a second plurality of passageways are formed in a medial portion of the foldable frame, and a third plurality of passageways are formed in a lower portion of the foldable frame.

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A plurality of straps having an adjustable length are used to connect the foldable frame to the headrest of the vehicle seat. More specifically, a first end of the straps engage one of the plurality of first passageways, and the second end of the straps each have a hook member connected thereto that engages a headrest support post.

The second plurality of passageways are formed in a medial portion of the foldable frame, and have a shape substantially similar to the first plurality of passageways formed in an upper portion of the foldable frame. Another strap having an adjustable length connected to opposing second passageways to secure an oxygen tank when positioned to rest in the frame in an unfolded position.

The third plurality of passageways are formed in a lower portion of the foldable frame, and have a shape that is substantially different from that of the first and second passageways formed in the upper and medial portions of the foldable frame, respectively. Elastic straps have a first end that engage the third plurality of passageways, and a second end that engages a lower support member of the vehicle seat.

The Applicant submits that the claims, as amended, define over the Bell '839 patent. More specifically, the Bell '839 patent fails to disclose a substantially flat body. Further, the Bell '839 patent fails to disclose that the passageways formed in the upper and lower portions of the body have a substantially similar shape, while the apertures formed in the medial portion of the body have a shape substantially different from the upper and lower passageways, as set forth in amended independent Claim 4, for example. Still further, the Bell '839 patent fails to disclose a plurality of C-shaped apertures formed in a medial portion of the body, as set forth in amended independent Claim 13, for example.

The Applicant therefore submits that independent Claims 4 and 13 are patentable over the Bell '839 patent. The dependent

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claims, which recite further distinguishing features, are also patentable and require no further discussion herein.

IV. The Claims are Patentable Over the Remaining Prior Art

The Examiner has also cited U.S. Patent No. 5,415,457 to Kifer and U.S. Patent Publication No. 2002/01508280 by Fernandez to reject the remaining claims. The Kifer '457 patent discloses a vehicle seat back attachment for mounting to a rear portion of a vehicle seat for retaining plastic shopping bags. More specifically, the Kifer '457 patent discloses a wall insert that is inserted into a recess in a vehicle seat. The wall insert includes a plurality of hooks that engage a portion of the seat to thereby mount the wall insert in the recess formed in the vehicle seat.

The Fernandez '280 patent application discloses a display unit to mount metal coins, and to illuminate the metal coins using a light source. The Examiner cites the Fernandez '280 patent application for support of a body having an octagonal shape and indicia positioned thereon. Of course, the Fernandez '280 patent application is not related to the field of retaining devices for use in vehicles.

Applicant submits that one of ordinary skill in the art would not look to combine a foldable frame that may be removably connected to a vehicle seatback for holding an oxygen tank, as disclosed in the Bell '839 patent, with a wall insert to be mounted within a recess in a rear portion of a vehicle seat, as disclosed in the Kifer '457 patent, and a coin display unit, as disclosed in the Fernandez '280 patent application. It is therefore submitted that there is simply no proper teaching or suggestion in the prior art to combine the Bell '839 patent with the Kifer '457 patent and the Fernandez '280 patent application in the manner set forth by

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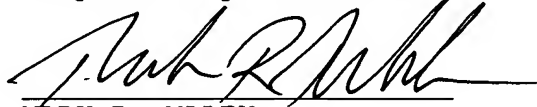
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the Examiner. Accordingly, Applicant submits that all of the claims, as amended, are patentable.

CONCLUSION

In view of the amendments to the claims, and the arguments provided above, it is submitted that all of the claims are patentable. Accordingly, a Notice of Allowance is requested in due course. Should any minor informalities need to be addressed, the Examiner is encouraged to contact the undersigned attorney at the telephone number listed below.

Respectfully submitted,



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CERTIFICATE OF MAILING

I HEREBY CERTIFY that the foregoing Preliminary Amendment has been forwarded via U.S. Mail to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 this 23rd day of March, 2005.



Emily L. Kuss